

Notice of Allowability

Application No.

10/518,924

Examiner

Christina Marchetti Bradley

Applicant(s)

LINDENBLATT ET AL.

Art Unit

1654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 01/22/2007.
2. ☒ The allowed claim(s) is/are 1-23.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 2/21/2007
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

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EXAMINER'S AMENDMENT

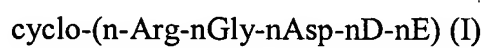
An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview and a follow-up facsimile with Brian P. Heaney on 4/19/2007.

The application has been amended as follows:

Claim 1. An aqueous pharmaceutical composition comprising:

an oligopeptide of the formula I



in which

D and E each, independently of one another, denote Gly, Ala, β -Ala, Asn, Asp, Asp(OR), Arg, Cha, Cys, Gln, Glu, His, Ile, Leu, Lys, Lys(Ac), Lys(AcNH₂), Lys(AcSH), Met, Nal, Nle, Orn, Phe, 4-Hal-Phe, homoPhe, Phg, Pro, Pya, Ser, Thr, Tia, Tic, Trp, Tyr or Val; ~~where the said amino acid radicals may also be derivatised;~~

R denotes alkyl having 1-18 C atoms;

Hal denotes F, Cl, Br, or I;

Ac denotes alkanoyl having 1-10 C atoms, aroyl having 7-11 ~~carbon~~C atoms or aralkanoyl having 8-12 C atoms; and

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n denotes a ~~hydrogen atom H~~, or an alkyl radical-R, benzyl or an aralkyl radical having 7-18 C atoms on the alpha-amino function of the corresponding amino acid radical,₃

with the proviso that at least one amino acid radical has a substituent n, where n denotes R,

and where, if ~~they~~ the amino acids are ~~radicals of~~ optically active amino acids and amino acid derivatives, both the D and L forms are included,

and physiologically acceptable salts thereof;

and an etherified β -cyclodextrin having a water solubility of greater than 1.8 mg/ml ~~of~~ in water.

Claim 4. An aqueous pharmaceutical composition according to Claim 1, wherein the etherified β -cyclodextrin has a molar degree of substitution of between 0.2 and 10, based on the ether substituents.

Claim 21. An aqueous pharmaceutical composition according to Claim 1, further comprising one or more physiologically tolerated adjuvants selected from antioxidants, preservatives, and further stabilisers, structure formers and solubilizers, wherein the stabilisers, structure formers and solubilizers are selected from the group consisting of polyethylene glycols and dextrans.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina Marchetti Bradley whose telephone number is (571) 272-9044. The examiner can normally be reached on Monday through Friday, 8:30 A.M. to 5:00 P.M.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached on (571) 272-0562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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